

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Monday 10 January 2022 at 1.30 pm**

Present:

Councillor L Brown (Chair)

Members of the Committee:

Councillors A Batey, C Hunt and E Waldock

Also Present:

Helen Johnson (Licensing Team Leader)
Stephen Buston (Solicitor, DCC)
Councillor R Adcock-Forster (on behalf of other persons)
Miss Reay (other persons)
Mrs Bedding (other persons)
Ms Abraham (other persons)
Mr Wright and Ms McCarthy-Wright (Applicant)
Mr Kemp (Applicant's Counsel)
Mr Lynn (Applicant's Legal Advisor)
Ms Fenwick (Applicant's Legal Advisor)

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The minutes of the meetings held on 4 October 2021 and 16 November 2021 were agreed as a correct record and were signed by the Chair.

5 Application for the Grant of a Premises Licence - Dalton Old Pump House, Seaham, County Durham

The Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change regarding an application to grant a Premises Licence in respect of Dalton Old Pump House, Seaham, County Durham (for copy see file of minutes).

A copy of the application and supporting documentation had been circulated to all parties. The Licensing Team Leader advised that additional information had been submitted by Objectors and the Applicants agent provided a response to some of the concerns raised.

Following mediation with Durham County Council's Environmental Health Department and the Durham Safeguarding Children Partnership, the Applicant added some additional conditions to the application and amended the requested timings for the provision of Live Music to between 9.00am and 11.00pm, Monday to Sunday.

It was noted that the Planning Department, Durham Constabulary and the Fire Safety Authority had no comments on the application.

During the consultation period, the Licensing Authority received six representations from other persons in relation to the application.

All parties were given the opportunity to ask questions of the Licensing Team Leader.

The Chair noted that not all objectors were in attendance and advised that the Committee would take into account their written representations.

Councillor Robert Adcock-Foster was invited to address the Committee on behalf of the objectors. He was pleased to see the building that had been derelict for many years being brought back into use. He advised he was supporting local resident's concerns in relation to operating hours and the noise and light pollution this would generate.

Ms Abraham was invited to address the Committee and was pleased to see the building being put to good use, and despite the Applicant's conduct towards residents which had been hostile at times, she remained supportive. The issue of concern she had was in relation to the operating hours and was disappointed that the effects this would have on residents was only considered following mediation. She added that conduct had not been conciliatory, and many residents had lost faith in any assurances the Applicant may provide with regards to alcohol and live music concerns.

The Committee noted Ms Abraham's property on the map, and it was understood there would be a new entrance to the premises, however, currently the entrance was directly in front of Ms Abraham's home. She added that the properties were owned by Northumbrian Water and were single glazed homes which had never been an issue until now.

Ms Abraham had no issue with the supply of alcohol, however, raised concerns over the possibility of holding gin festivals and 'battle of the bands' events and requested that the service be restricted to wedding functions. The main concern for residents was live music being piped outside which would be intolerable for working residents seven days a week. She was not aware of any sound provision measures that had been put in place and asked that a restriction or modification be made to reduce the sound level after 10.00 pm so not to be audible within homes which would provide reassurance that lives were not turned upside down when the venue was opened. Alternately she suggested that live music be played four days a week, rather than seven days to allow residents to have some resemblance of normal life.

She referred to the applicant's additional information that was circulated which was the noise management report that was provided as part of the initial planning process. The estimated sound level was up to 41 decibels within her property which would be equivalent to a washing machine's spin cycle. She advised that the original noise plan had been found to be inadequate at the planning stage and she was not aware that any noise monitoring had taken place which had been recommended in the planning decision notice.

Mrs Bedding was in support of the rejuvenation, however was disappointed with the attitude of the Applicant and believed that the licence would greatly affect the living amenities of the surrounding residents.

She was informed that boundaries would be created to prevent intrusion on properties and frosted glass on higher windows, however this has not happened.

Mrs Bedding explained that she was a front-line worker and when at home, should be able to feel safe and relax to help deal with the physical and emotional strain from her work. She mentioned difficulties her family had encountered with parking areas, and had to change her sons bedroom due to the noise caused by generators and the anticipated alcohol-fuelled antics and noise from patrons waiting to be collected late at night, none of which she felt had been accounted for.

It was noted that the Old Pump House would also be a venue for Christmas, New Years Eve, Birthday parties and gin festivals.

She requested that the alcohol license be limited to 11.00 am to 10.30 pm, with no Sunday opening hours and no external music, allowing residents some peace during time spent at home.

Ms Reay was delighted the building was to be used as a wedding venue, however felt that the seven-day licence from 9.00 am to 11.00 pm, with piped music outside would lead to excessive noise pollution for residents. She had concerns in relation to other events being held, such as gin festivals and noted that the noise created by patrons would not end at 11.00 pm as they would then vacate the building and congregate outside waiting for lifts and taxis. She advised that the area was a hamlet with a tranquil way of life and stressed that noise, seven days a week for fourteen hours a day was too excessive.

She asked the Committee to consider the needs of residents and reduce the hours to a more reasonable timescale.

All parties were given the opportunity to ask questions.

The Chair asked how close the nearest property was in relation to the Old Pump House. Ms Abraham advised that her house was the closest which was approximately twenty-five metres from the premises.

Councillor Batey was disappointed to hear reference made to the lack of communication between the applicants and residents. She noted there was a number of points raised that were in relation to Planning issues and clarified that the Committee could only consider licensing related issues. Ms Abraham confirmed that issues had been raised with the Planning Department, Councillors, and the local MP.

Mr Kemp was invited to address the Committee on behalf of the Applicant. He had read the objections and listened to resident's representations. He noted that the licence was not being objected to, rather the times for the supply of alcohol and the times that live music could be played.

The premises would primarily be used as a wedding venue with high-end, pre-booked events, together with smaller scale events such as afternoon tea and brunches to supplement wedding events. He advised there was no intention to hold 'battle of the bands' events.

The building had no accommodation, however there was a bridal suite and a lounge area for the groom to use. Whilst there was a maximum capacity of 700 people, it was unlikely that number would be reached, however it remained a possibility.

The premises was not located in a residential area, however noted a couple of houses close by but this was not within a housing estate.

The premises was a Grade II listed building and a considerable amount of money had been invested in renovating the building, together with compliance of certain criteria associated with listed buildings.

Mr Kemp advised that when the application was submitted, the Applicant addressed the licensing objectives. CCTV has been installed and security personnel have been employed to ensure public safety.

The initial application that was submitted on the 15 November 2021, was for music to be played from 9.00 am until 12.00 midnight. On the 23 November 2021, he advised that his client had reduced the times from 12 midnight to 11.00 pm which had been readily accepted by the Applicant and was in no way a case of lack of thought given to residents.

The issue regarding music was not straight-forward under the Licensing Act as there were various types of music. He noted that that regulated activity was not required if the number of guests did not exceed 500, and incidental music was not a licenced activity.

He highlighted that the application for live music was in relation to piped background music for guests sat outside who would be engaged in conversation, therefore the level would not be above background music which he hoped would waylay concerns raised.

He explained the issue of live music could have been misleading and clarified that the nature of the venue meant it was more appropriate for a string quartet to be playing at 9.00 am to escort the bride, rather than a band, and this would not be amplified.

Mr Kemp advised that the Applicant wished to make a concession and alter the application so that live music be played from 11.00 am instead of 9.00 am.

He referred to the noise management report that was circulated and noted the conclusion was that noise would be at such a low level would not interfere with neighbouring residents. He disputed the assertion that 41 decibels was the equivalent to a spinning washing machine.

The walls to the premises are a metre thick and windows and skylights were double-glazed. He suggested that 11.00 pm was not an unreasonable time to end live music as it was within the provision of licensing objectives and asked that weight be given in regard to Environmental Health had made no further representations.

In relation to the supply of alcohol, Mr Kemp advised that the Applicant wished for the hours from 9.00 am until 12.00 midnight remain to provide provision for the bride and groom before the wedding.

As referred to previously, Mr Kemp explained that the venue was high-end and exclusive to wedding events. There would be quality branded alcoholic and would be akin to an exclusive hotel with prices to match. There would be no happy hours as the venue was not a drinking establishment, rather it was an event establishment with the provision of food and drink for wedding breakfasts and evening buffets, which he hoped would waylay any concerns.

Referring to issues that were raised with regards to Safeguarding Children, he noted his clients immediately exceeded to the request with regards to the Challenge 25 conditions.

The issue appeared to be with the supply of alcohol between 11.00 pm and 12.00 midnight. Mr Kemp advised that as a wedding commercial enterprise, the business would be severely hampered if it were to cease at 11.00 pm. It was noted that the Council's framework stipulated that 12.00 midnight was not an unreasonable time to cease the supply of alcohol.

Given the location of the premises, it was unlikely that customers would be walking anywhere. The Applicant had liaised with local taxi firms and there was no accommodation on site, therefore guests would be encouraged to leave the premises in a timely manner.

In relation to the premises entrance, the Applicant was moving the entrance further south away from Ms Abraham's property which would alleviate concerns in relation to vehicular noise.

Mr Kemp touch on the issue of the noise management plan and the representations that had been made. He confirmed that the planning issues had now been signed off and Planning had made no representations in relation to the licensing application. It was also noted that the police had made no representations with regards to crime and disorder and public safety.

Mr Kemp acknowledged the concerns of residents, however referred to the appellants court's decision in caselaw, in that real evidence must be provided, and not a perception as to what might happen. He found it difficult to see what else the Applicant could do to assist the local community as his clients had covered all grounds which he hoped would help assist the Committee to reach their decision.

Mr Kemp clarified that his clients had tried to enter into as much dialogue with residents as possible, whether that was met with great gusto was

questionable, but did not want the Committee to think his clients had not attempted to communicate with residents.

The Applicants were businesspeople, and given the conditions that have been agreed, felt that the premises would promote all four licensing objectives.

All parties were given the opportunity to ask questions of the Applicant.

Responding to questions from Councillor Batey regarding issues relating to parking and screening to mitigate noise, Mr Kemp advised that it was highly unlikely that a wedding would have 700 guests and envisaged that numbers would be around 150 guests. After briefly speaking with his clients, he added that once wedding tables were arranged, space would be limited to approximately 350 people. He advised that the Applicant had spoken with the local Morrisons store regarding utilising overflow car parks, if required for larger numbers.

With regards to screening, the building was also on a Grade II listed site and would require planning approval and understood that landscaping and fencing would be carried out later in the year that would provide privacy and mitigate noise.

Councillor Hunt asked if there was provision to hold more than one wedding at a time. Mr Kemp clarified that there would only be one wedding held a day and they would have full use of the premises and emphasised that it would be unlikely that weddings would be held seven days a week due to cleaning and re-stocking.

The Chair queried the location of the outside terrace, the type of music that would be piped outside. The terrace was confirmed on the plan which was a sunken courtyard in the middle of the site with living walls to help mitigate noise. The Applicant stated they would endeavour to bring guests back into the premises and close the outside area between 10.00 pm and 10.30pm and confirmed that recorded background music would be played outside, not live music. It was noted that SIA registered security personnel would be employed for every event.

Ms Abraham highlighted that it was previously suggested that the terrace area would be entirely enclosed and questioned if that was now not the case and the area would now be open which raised more concern. Mr Kemp advised that this was yet to be decided and there would be an additional process to undertake with regards to planning.

After inviting all parties to sum up, Councillors L Brown, A Batey and C Hunt **Resolved** to retire to deliberate the application in private with all parties to be notified of the decision later in the day.

In reaching their decision the Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change and the verbal and written representations from the Objectors and Applicant. The Committee also took into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

RESOLVED:

That the application to vary the Premises Licence be granted as follows:

Licensable Activity	Days & Hours
Supply of alcohol (for consumption on the premises)	Monday to Sunday: 09.00 - 00.00 hrs
Provision of Live Music	Monday to Sunday: 11.00 - 23.00 hrs

The following conditions shall be attached to the Premises Licence:

- a) Prior to the premises opening for trade all staff will receive effective and thorough training in relation to the supply of alcohol to customers on the premises and such training will continue at regular intervals and will be mandatory prior to any new staff commencing employment.
- b) It will be a policy of the venue that any person intoxicated or believed to be intoxicated will be refused sale of alcohol.
- c) The premises will operate a 24-hour CCTV system which will cover both inside of the premises and the outside boundary of the premises. CCTV recordings will be stored for a month and, should the police require any of these recordings, they will be made available immediately.
- d) The alcohol will be sold only within specific areas of the premises and outside of opening hours these will be adequately secured, and

an alarm system will be operational which will trigger urgent response in cases of intrusion.

- e) The opening times of the premises will act to prevent late night/early morning crime and disorder as a result of alcohol consumption and the premises are located predominantly away from housing and other community areas. The pricing of the alcohol served from the premises will be designed to discourage binge drinking whilst soft drink pricing will be reasonable to encourage people to also consume soft drinks. The serving and the promotion of the food served at the premises will also seek to minimise any effective alcohol consumption.
- f) For events, additional security will be put in place in the form of security personnel.
- g) The premises will have a health and safety file prepared together with fire risk assessment prior to opening and these will be regularly updated according to a regulatory requirement or amendments from time to time by professionals in a given field. Once open, records will be kept on the premises of any incidents and these will be made available to any responsible body requesting to see the same. There will be fire safety equipment on the premises at suitable and identifiable points and designated fire safety officer will be on site during opening times.
- h) The premises are being built to current building regulation standards in accordance with the planning permission mentioned above to a high-quality specification focused around health and safety suitable for the authorised use of accessibility for disabled persons.
- i) The sanitary provision is in line with the licensing policy advice for this type of venue use.
- j) There will be a limitation on the number of patrons allowed on the premises at any given time and particular attention will be paid to the outside areas which will be suitably separated from any car parking areas and only specific areas are designated for patrons for smoking/vaping.
- k) The premises are located a considerable distance from concentrated residential areas with their nearest neighbours being predominantly commercial/industrial sites. Accordingly, any noise created at the venue is likely to be contained within the venue and its substantial and surrounding grounds and not have a public nuisance impact.

- l) Any music played from the venue would be limited to suitable volumes for the environment in which it is being played.
- m) Children will have to be accompanied by a responsible adult when attending the premises.
- n) Verification of age – safeguards to be in place to see that alcohol is not served to or purchased on behalf of underage children.
- o) A 'Challenge 25' age verification policy is operated which requires anyone looking under the age of 25 to produce photographic evidence of proof of age from a passport, driving licence or PASS accredited scheme before any alcohol is supplied. The actions of staff operating the policy to be regularly monitored.
- p) Minimise the risk of proxy sales – The Licence Holder will work with the police to minimise the risk of proxy provision / proxy sales. (This is alcohol purchased or obtained for young people by relatives or older friends).
- q) Maintain a refusals register – where a sale of alcohol is refused if a person appears intoxicated or appears to be under 18, a refusal register/log to be updated. The register to be made available to the police on request.
- r) Training of staff – all staff responsible for selling age restricted goods to be trained to implement the age verification policy. Staff training to include the risk from proxy sales. Training records for staff to be maintained and refresher training to be provided annually.